

Commodity Credit Corporation, USDA

§ 1415.3

(f) No delegation in this part to lower organizational levels will preclude the NRCS Chief or the FSA Administrator from determining any issue arising under this part or from reversing or modifying any determination arising from this part.

(g) The USDA Forest Service may hold GRP easements on properties adjacent to USDA Forest Service land, with the consent of the landowner.

(h) Program participation is voluntary.

(i) Applications for participation will be accepted on a continual basis at local USDA Service Centers. Eligible entities wishing to enter into a cooperative agreement under §1415.17 in order to purchase, own, write, and hold easements may apply on a continuous basis to the NRCS State Conservationist. The NRCS State Conservationist and FSA State Executive Director will establish cut-off periods to rank and select applications for participation. These cut-off periods will be available in program outreach material provided by the local USDA Service Center. Once funding levels have been exhausted, unfunded eligible applications will remain on file until they are funded or the applicant chooses to be removed from consideration.

(j) The services of third parties as provided for in part 652 of this title may be used to provide technical services to participants.

§ 1415.3 Definitions.

Activity means an action other than a conservation practice that is included as a part of a GRP management or conservation plan that has the effect of alleviating problems or improving treatment of the resources, including ensuring proper management or maintenance of the functions and values restored, protected, or enhanced through an easement or rental contract.

Administrator means the Administrator of FSA or the person delegated authority to act for the Administrator.

Applicant means a person, legal entity, joint operator, or Indian Tribe who applies to participate in the program.

Chief means the Chief of NRCS or designee.

Biological diversity means the variety and variability among living organisms

and the ecological complexes in which they live.

Commodity Credit Corporation is a government-owned and operated entity that was created to stabilize, support, and protect farm income and prices. The CCC is managed by a Board of Directors, subject to the general supervision and direction of the Secretary of Agriculture, who is an ex-officio director and chairperson of the Board. The CCC provides the funding for GRP, and FSA and NRCS administer GRP on its behalf.

Common grazing practices means those grazing practices, including those related to forage and seed production, common to the area of the subject ranching or farming operation. Included are routine management activities necessary to maintain the viability of forage or browse resources that are common to the locale of the subject ranching or farming operation.

Conservation district means any district or unit of State, Tribal, or local government formed under State, Tribal, or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar name.

Conservation plan means a record of the GRP participants' decisions and supporting information that will be developed to address resource concerns in addition to grazing land uses. The conservation plan will describe the implementation and maintenance of GRP management and conservation practices directly related to any additional land eligibility criteria under which the land is enrolled. Additional land eligibility criteria may include, but is not limited to, significant animal or plant habitat and historical or archeological resources.

Conservation practice means a specified treatment, such as a vegetative, structural, or land management practice, that is planned and applied according to NRCS Field Office Technical Guide (FOTG) standards and specifications.

Conservation values means those natural resource attributes that sustain and enhance ecosystem functions and values of the grassland area including, but not limited to, habitat for grassland and shrubland dependent plants and animals, native plant and animal biodiversity, soil erosion control, forage production, and air and water quality protection.

Cost-share payment means the payment made by USDA to a program participant or vendor to achieve the restoration, enhancement, and protection goals in accordance with the GRP restoration plan component of the restoration agreement.

Dedicated account means a dedicated fund of the eligible entity held in a separate account for the management, monitoring, and enforcement of conservation easements and that cannot be used for other purposes.

Easement means a conservation easement, which is an interest in land defined and delineated in a deed whereby the landowner conveys certain rights, title, and interests in a property to the United States, an eligible entity, or both for the purpose of protecting the grassland and other conservation values of the property. Under GRP, the property rights are conveyed by a conservation easement deed.

Easement area means the land encumbered by an easement.

Easement payment means the consideration paid to a landowner for an easement conveyed to the United States, an eligible entity, or both under GRP.

Eligible entity means, for the purposes of entering into a cooperative agreement under 16 U.S.C. 3838q(d), an agency of State or local government, an Indian Tribe, or a nongovernmental organization that has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland; has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and has the resources necessary to effectuate the purposes of the charter.

Enhancement means to increase or improve the viability of grassland and

grazing resources, including habitat for declining species of grassland dependent birds and animals.

Farm Service Agency is an agency of the Department of Agriculture.

FSA State Executive Director means the FSA employee authorized to implement GRP and direct and supervise FSA activities in a State, Caribbean Area, or the Pacific Islands Area.

Field Office Technical Guide means the official local NRCS source of resource information and interpretations of guidelines, criteria, and requirements for planning and applying conservation practices and conservation management systems. It contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Fire pre-suppression means activities as outlined in a GRP management plan such as the establishment and maintenance of firebreaks and prescribed burning to prevent or limit the spread of fires.

Forb means any herbaceous plant other than those in the grass family.

Functions and values of grasslands and shrublands means ecosystem services provided, including domestic animal productivity, biological productivity, plant and animal richness and diversity, fish and wildlife habitat (including habitat for pollinators and native insects), water quantity and quality benefits, aesthetics, open space, and recreation.

Grantor means the landowner who is transferring land rights to the United States or an eligible entity, or both through an easement.

Grassland means land on which the vegetation is dominated by grasses, grass-like plants, shrubs, or forbs, including shrubland, land that contains forbs, pastureland, and rangeland, and improved pastureland and rangeland.

GRP management plan means the document developed by NRCS that describes the implementation of the grazing management system consistent with the prescribed grazing standard contained in the FOTG. The GRP management plan will include a description of the grazing management system, permissible and prohibited activities,

any associated restoration plan or conservation plan, if applicable, and a description of USDA's right of ingress and egress.

Grazing value means the financial worth of the land as used for grazing or forage production. The term is used in the calculation of compensation for rental contracts and easements. For easements, this value is determined by NRCS through an appraisal process or a market survey process. For rental contracts, FSA determines the grazing value based upon an administrative process.

Historical and archeological resources mean resources that are:

(1) Listed in the National Register of Historic Places (established under the National Historic Preservation Act (NHPA), 16 U.S.C. 470, *et seq.*);

(2) Formally determined eligible for listing the National Register of Historic Places by the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and Keeper of the National Register in accordance with section 106 or the NHPA);

(3) Formally listed in the State or Tribal Register of Historic Places of the SHPO (designated under section 101(b)(1)(B) of the NHPA) or the Tribal Register of Historic Places (designated under section 101(d)(1)(C) of the NHPA); or

(4) Included in the SHPO or THPO inventory with written justification as to why it meets National Register of Historic Places criteria.

Improved rangeland or pastureland means grazing land permanently producing naturalized forage species that receives varying degrees of periodic cultural treatment to enhance forage quality and yields and is primarily harvested by grazing animals.

Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) that is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Landowner means a person, legal entity, or Indian Tribe having legal ownership of land and those who may be buying eligible land under a purchase agreement. The term landowner may include all forms of collective ownership including joint tenants, tenants-in-common, and life tenants. The term landowner includes Indian Tribes, State governments, local governments, and nongovernmental organizations that qualify as eligible entities are not eligible as landowners.

Legal entity means an entity created under Federal or State law and that: (1) Owns land or an agricultural commodity, product, or livestock; or (2) produces an agricultural commodity, product, or livestock.

Maintenance means work performed to keep the applied conservation practice functioning for the intended purpose during its life span. Maintenance includes work to manage and prevent deterioration, repair damage, or replace the practice to its original condition if one or more components fail.

Native means a species that is indigenous and is a part of the original fauna or flora of the area.

Natural Resources Conservation Service is an agency of the Department of Agriculture.

NRCS State Conservationist means the NRCS employee authorized to implement GRP and direct and supervise NRCS activities in a State, Caribbean Area, or the Pacific Islands Area.

Naturalized means an introduced, desirable forage species that is ecologically adapted to the site and can perpetuate itself in the community without cultural treatment. The term naturalized does not include noxious weeds.

Nesting season means the time of year that grassland dependent birds in significant decline in the local area build nests or otherwise find a place of refuge for purposes of reproduction.

Nongovernmental organization means any organization that:

(1) Is organized for, and at all times since, the formation of the organization, and has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(2) Is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code; and

(3) Is described—

(i) In section 509(a)(1) or 509(a)(2) of that Code, or

(ii) Is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

Participant means a person, legal entity, joint operation, or Indian Tribe who is accepted to participate in GRP through a rental contract or option agreement to purchase an easement.

Pastureland means grazing lands comprised of introduced or domesticated native forage species that are used primarily for the production of livestock. These lands receive periodic renovation and cultural treatments, such as tillage, aeration, fertilization, mowing, and weed control, and may be irrigated. This term does not include lands that are in rotation with crops.

Permanent easement means an easement that lasts in perpetuity or for the maximum duration allowed under the law of a State.

Private land means land that is not owned by a governmental entity and includes Tribal lands.

Purchase price means the amount paid to acquire an easement under a cooperative agreement between NRCS and an eligible entity. It is the fair market value of the easement.

Rangeland means a land cover or use category with a climax or potential plant cover composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing, and introduced forage species that are managed like rangeland. Rangeland includes lands re-vegetated naturally or artificially when routine management of that vegetation is accomplished mainly through manipulation of grazing. This term includes areas where introduced hardy and persistent grasses are planted and such practices as deferred grazing, burning, chaining, and rotational grazing are used with little or no chemicals or fertilizer being applied. Grasslands, savannas, many wetlands, some deserts, and tundra are considered to be rangeland. Certain communities of low forbs and

shrubs, such as mesquite, chaparral, mountain shrub, and pinyon juniper are also included as rangeland.

Rental contract means the legal document that specifies the obligations and rights of a participant in GRP, including the annual rental payments to be provided to the participant for the length of the contract to maintain or restore grassland functions and values under GRP.

Restoration means implementing any conservation practice, system of practices, or activities to restore functions and values of grasslands and shrublands. The restoration may re-establish grassland functions and values on degraded land, or on land that has been converted to another use.

Restoration agreement means an agreement between the program participant and NRCS or eligible entity to carry out activities and conservation practices necessary to restore or improve the functions and values of that land. A restoration agreement will include a restoration plan.

Restoration plan is the portion of the restoration agreement that includes the schedule and conservation practices and activities to restore the functions and values of grasslands and shrublands, including protection of associated streams, ponds, and wetlands. The restoration plan incorporates the requirement that program participants will maintain GRP-funded conservation practices and activities for their expected lifespan as described in the plan.

Right of enforcement means a property interest in the easement the Chief may exercise on behalf of the United States under specific circumstances in order to enforce the terms of the conservation easement. The right of enforcement provides that the Chief has the right to inspect and enforce the easement if the eligible entity fails to uphold the easement or attempts to transfer the easement without first securing the consent of the Secretary.

Secretary means the Secretary of the Department of Agriculture.

Shrubland means land where the dominant plant species is shrubs, which are plants that are persistent, have woody stems, and a relatively low growth habit.

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Significant decline means a decrease of a species population to such an extent that it merits conservation priority as determined by the State Conservationist, in consultation with the State Technical Committee.

State Technical Committee means a committee established by the Secretary in a State pursuant to 16 U.S.C. 3861.

Tribal land means:

(1) Land held in trust by the United States for individual Indians or Indian Tribes; or

(2) Land, the title to which is held by individual Indians or Indian Tribes subject to Federal restrictions against alienation or encumbrance; or

(3) Land which is subject to rights of use, occupancy, and benefit of certain Indian Tribes; or

(4) Land held in fee title by an Indian, Indian family, or Indian Tribe.

USDA means the Department of Agriculture and its agencies and offices, as applicable.

§ 1415.4 Program requirements.

(a) Except as provided for under §1415.17, only landowners may submit applications for easements. For rental contracts, applicants must own or provide written evidence of control of the property for the duration of the rental contract.

(b) The easement or rental contract will require that the area be maintained in accordance with GRP goals and objectives for the term of the easement or rental contract, including the conservation, protection, enhancement, and if necessary, restoration of the grassland functions and values.

(c) All participants in GRP are required to implement a GRP management plan approved by NRCS. When an eligible entity holds the GRP easement, NRCS will develop GRP management plans with eligible entities. In cases where a participant receives ranking points on the basis of resource concerns other than grazing land concerns, all such resource concerns will be addressed in an applicable conservation plan.

(d) The easement or rental contract must grant USDA or its representatives a right of ingress and egress to the easement or rental contract area.

For easements, this access is legally described by the conservation easement deed and the GRP management plan. Access to rental contract areas is identified in the GRP management plan.

(e) Easement participants are required to convey unencumbered title that is acceptable to the United States and provide consent or subordination agreements from each holder of a security or other interest in the land. The landowner must warrant that the easement granted the United States or eligible entity is superior to the rights of all others, except for exceptions to the title that are deemed acceptable by USDA.

(f) Landowners are required to use a standard GRP conservation easement deed developed by USDA or developed by an eligible entity and approved by USDA under §1415.17 of this part. The easement grants development rights, title, and interest in the easement area in order to protect grassland and other conservation values.

(g) The program participant must comply with the terms of the easement or rental contract, and comply with all terms and conditions of the GRP management plan and any associated conservation plan or restoration agreement.

(h) Easements and rental contracts allow, consistent with their terms and the program purposes, the following activities as outlined in the GRP management plan:

(1) Common grazing practices, including maintenance and necessary conservation practices and activities (*e.g.*, prescribed grazing; upland wildlife habitat management; prescribed burning; fencing, watering, and feeding necessary for the raising of livestock; and related forage and seed production) on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species common to the locality;

(2) Haying, mowing, or harvesting for seed production subject to appropriate restrictions, as determined by the State Conservationist, during the nesting season for birds in the local area that are in significant decline, or are conserved in accordance with Federal or State law;